

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

Trustees of the  
LABORERS PENSION TRUST FUND -  
DETROIT & VICINITY; LABORERS  
VACATION & HOLIDAY TRUST  
FUND - DETROIT & VICINITY;  
LABORERS METROPOLITAN DETROIT  
HEALTH & WELFARE FUND; and the  
MICHIGAN LABORERS TRAINING  
FUND, trust funds established under, and  
administered pursuant to, federal law,

Plaintiffs,

v.

Case No.  
Hon.

SERES-CASTLE MASONRY, INC.,

Defendant.

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**COMPLAINT**

PLAINTIFFS allege the following:

1. Plaintiffs are the Trustees for trust funds established under, and administered pursuant to, Section 302 of the Labor-Management Relations Act of 1947, as amended ("LMRA"), 29 U.S.C. §186, and the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. §§1001, *et seq.*, with principal offices located in this judicial district.

2. Defendant is a Michigan corporation, doing business in the building construction industry, an industry affecting commerce within the meaning of LMRA, with principal place of business located in this judicial district.

3. Jurisdiction of this Court is predicated on Section 301 of LMRA, 29 U.S.C. §185, and ERISA Sections 502(a)(3), 502(g)(2) and 515, 29 U.S.C. §§1132(a)(3), 1132(g)(2) and 1145, respectively, this being a suit for breach of the wage and fringe benefit provisions of collective bargaining agreements which the defendant, as employer, entered into with Local Unions 334, 1076 and/or 1191 of the Laborers International Union of North America, AFL-CIO (hereinafter collectively the "Laborers Union"), labor organizations representing employees in a industry affecting commerce, with principal offices located in this judicial district.

4. Pursuant to the aforementioned collective bargaining agreements, copies of which are in its possession, the defendant was and is obligated to pay specific wage rates and make contributions for fringe benefits (e.g., medical coverage for eligible participant employees and their families, pensions, vacation and holiday pay, and annuity benefits) for, or with respect to work performed by, those of their employees who are or have been represented by the Laborers Union, which contributions should have been paid directly to plaintiffs.

5. Pursuant to ERISA Section 209(a), 29 U.S.C. §1059(a), and the

collective bargaining agreements and trust agreements incorporated by reference therein, defendant is obligated to maintain records sufficient to determine the benefits due or which may become due to its employees represented by the Laborers Union via contributions to plaintiffs, and to submit to periodic audits by plaintiffs of its books and records to confirm the accuracy and timeliness of such employee wages and contributions to plaintiffs.

6. An audit of Seres-Castle Masonry, Inc. dated January 14, 2016 (attached) showed that it owed a total of \$27,740.01 in contributions and liquidated damages to the Funds. All contributions were paid, leaving a balance of \$3,900.53, all liquidated damages owed due to late payments. At the August 4, 2016 meeting, the plaintiffs approved a request by Seres-Castle that the \$3,900.53 be waived, provided that it stayed current for twelve months. The Company was informed of the Trustees' decision.

7. Seres-Castle did not meet its obligation to stay current. A March 21, 2017 audit (attached) of the Company showed that it had accumulated an additional \$974.16 in liquidated damages due to late payments for the calendar year 2016, which included the payments made after the August 4, 2016 meeting. Several more late payments were made after the audit issued.

8. Since Seres-Castle had not meet the conditions of the waiver, the

\$3,900.53 conditionally waived in liquidated damages was now due, in addition to the \$974.16 in liquidated damages owed pursuant to the most recent audit, a total of \$4,874.69.

8. Despite demand, defendant has failed and refused to pay the remaining indebtedness.

9. Defendant's indebtedness to plaintiffs for fringe benefit contributions (including contractual late payment charges or liquidated damages) for the period from December, 2016 through present is unknown and cannot be determined until defendant submits all necessary books and records for inspection and audit.

WHEREFORE, plaintiffs request that this Court enter judgment in their favor and against defendant as follows:

A. Adjudicating that defendant is contractually obligated to the plaintiffs pursuant to the collective bargaining agreements it entered into with the Laborers Union;

B. Ordering defendant to specifically perform according to the provisions of such collective bargaining agreements;

C. Entering Judgment against defendant in favor of the plaintiff in the amount of \$4,874.69, representing all amounts remaining owed pursuant to audit for the period through December, 2016, plus liquidated damages, statutory interest, costs

and attorneys' fees;

D. Upon request, ordering defendant to submit to the plaintiffs any and all books and records needed by them to determine the amount of its indebtedness from December, 2016, and

E. Upon submission of a motion to amend, awarding the plaintiffs the amount of defendant's indebtedness for the period from December, 2016 as ascertained by the above audit, plus liquidated damages, statutory interest, costs and attorney fees.

Respectfully submitted,

SACHS WALDMAN

By: s/George H. Kruszewski  
GEORGE H. KRUSZEWSKI (P-25857)  
Attorneys for Plaintiffs  
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Madison Heights, MI 48170  
248-658-0800  
Email: Gkruszewski@sachswaldman.com

March 9, 2018

**STEFANSKY, HOLLOWAY & NICHOLS, INC.**  
**PAYROLL AUDITING SERVICES**

22260 HAGGERTY ROAD, SUITE 350  
 NORTHVILLE, MICHIGAN 48167

(248) 305-9905  
 FAX: (248) 305-9901

January 14, 2016

Seres-Castle Masonry, Inc.  
 533 N. Harvey  
 Westland, MI 48185

Dear Sir/Madam:

This is to inform you of the results of the recent audit to confirm your contributions to the Laborers' Metropolitan Detroit Fringe Benefit Funds. Based on the records provided, our examination has revealed that the following amounts are still owing the aforementioned Funds.

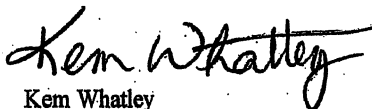
	<u>Health Care</u>	<u>Vacation</u>	<u>Pension</u>	<u>Annuity</u>	<u>Training</u>	<u>Ind. Steward</u>	<u>Masonry Prom.</u>	<u>LECET</u>	<u>Total</u>
04/13 - 12/15	\$6,824.99	\$3,586.00	\$11,000.00	\$0.00	\$491.39	\$218.40	\$120.11	\$98.59	\$22,339.48
	Liquidated damages resulting from this audit								\$ 2,190.24
	Liquidated damages resulting from late payments								\$ 3,210.29
									<u>\$ 27,740.01</u>

A man-by-man breakdown covering the contributions due and owing the Funds is enclosed.

Liquidated damages resulting from this audit of \$2,190.24 will be waived if this audit is paid within fifteen (15) days of the billing date.

Should you have any questions, or disagree with the above findings, please contact the writer at (248) 305-9905 to arrange for a review. If we do not hear from you within seven (7) days from the date of this letter, the audit results as shown will become final and the matter will be referred to Mr. Michael J. Brown, Collection Administrator. Please make your check payable to the "Laborers' Fringe Benefit Funds", and mail to the above address c/o Mr. Michael J. Brown (248-305-9118). DO NOT MAIL THIS PAYMENT TO THE BANK.

Very truly yours,



Kem Whatley  
 Fund Auditor

enclosure

xc: Mr. Michael J. Brown

Mr. B. Bass (Local #1076) w/o Enclosures

Mr. M. Aaron (Local #1191) w/o Enclosures

**DETROIT LABORER'S***Seres-Castle Masonry, Inc.***Schedule of Liquidated Damages****Resulting From Late Payments**

<b>Work Month</b>	<b>Deposit Date</b>	<b>Amount Owed</b>
05/01/13	07/22/13	\$18.15
06/01/13	08/22/13	\$43.43
07/01/13	09/12/13	\$22.55
08/01/13	10/07/13	\$21.21
10/01/13	02/18/14	\$115.38
11/01/13	02/18/14	\$22.71
11/01/13	05/01/14	\$121.12
12/01/13	05/01/14	\$34.64
04/01/14	06/26/14	\$90.31
03/01/14	06/26/14	\$115.17
10/01/13	07/28/14	\$722.77
05/01/14	08/20/14	\$301.92
06/01/14	09/19/14	\$268.75
07/01/14	09/19/14	\$104.46
10/01/13	10/29/14	\$34.58
08/01/14	10/30/14	\$220.65
09/01/14	12/03/14	\$173.28
10/01/14	12/16/14	\$72.71
11/01/14	01/06/15	\$27.99
03/01/15	05/20/15	\$60.75
04/01/15	07/10/15	\$118.40
05/01/15	08/13/15	\$202.27
06/01/15	08/13/15	\$47.30
07/01/15	09/15/15	\$50.45
08/01/15	10/23/15	\$145.24
09/01/15	11/12/15	\$54.10
		\$3,210.29

**STEFANSKY, HOLLOWAY & NICHOLS, INC.**  
*PAYROLL AUDITING SERVICES*

22260 HAGGERTY ROAD, SUITE 350  
NORTHVILLE, MICHIGAN 48167

(248) 305-9905  
FAX: (248) 305-9901

March 21, 2017

Seres-Castle Masonry, Inc.  
533 N. Harvey  
Westland, MI 48185


Dear Sir/Madam:

This is to inform you of the results of the recent audit to confirm your contributions to the Laborers' Metropolitan Detroit Fringe Benefit Funds.

Based on the records provided, our examination has revealed that your contributions have been properly made for the period of 01/16 - 12/16. Our examination does, however, show that your company owes \$974.16 in liquidated damages resulting from late payments.

Should you have any questions, or disagree with the above findings, please contact the writer at (248) 305-9905 to arrange for a review. If we do not hear from you within seven (7) days from the date of this letter, the audit results as shown will become final and the matter will be referred to Mr. Michael J. Brown, Collection Administrator. Please make your check payable to the "Laborers' Fringe Benefit Funds", and mail to the above address c/o Mr. Michael J. Brown (248-305-9118). DO NOT MAIL THIS PAYMENT TO THE BANK.

Very truly yours,

  
Kem Whatley  
Fund Auditor

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